

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2001-209-C - ORDER NO. 2009-519

AUGUST 5, 2009

IN RE: Application of BellSouth Telecommunications, Incorporated d/b/a AT&T South Carolina to Provide In-Region InterLATA Services Pursuant to Section 271 of the Telecommunications Act of 1996)	ORDER GRANTING PETITION FOR WAIVER OF FINE
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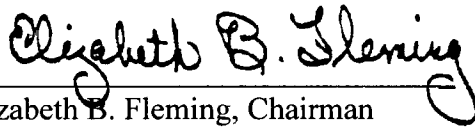
This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Petition of BellSouth Telecommunications, Incorporated d/b/a AT&T South Carolina (“AT&T” or “the Company”) for waiver of a Self-Effectuating Enforcement Mechanisms (“SEEM”) Plan fine. The Company recently discovered a mistake in certain performance data that has been posted as required by the Service Quality Measurementr (“SQM”) plan established in this Docket. Specifically, an error in the coding that is used to post information caused certain activity for the Service Order Accuracy (“SOA”) measurement to be posted under Resale results when it should have been posted under UNE results. The coding used to post SQM performance results is different from the coding used to calculate SEEM remedies, and the coding used to calculate SEEM remedies was correct at all times. Accordingly, despite the posting errors, all SEEM remedy obligations and SEEM liability calculations were correctly processed at all times, and all competitive local exchange carriers (“CLECs”) have received the appropriate payments under the SEEM plan.

The SQM Plan, however, requires AT&T to repost the corrected data. Absent the relief AT&T is seeking in its Petition, this reporting would result in AT&T paying a fine of approximately \$35,200 in South Carolina (and in AT&T paying fines of approximately \$316,800 in its nine-state Southeast region). AT&T asserts that under the present circumstances, which include no harm to the CLECs and self-reporting by AT&T, a fine of this magnitude is punitive, excessive, and inconsistent with the purposes of the reposting obligation. The SEEM Plan allows AT&T to “petition the Commission to consider relief based upon other circumstances.” AT&T therefore requests that this Commission enter an Order relieving it of any obligation to pay the aforementioned reposting fine. We would note that no entity has filed any document opposing the AT&T Petition.

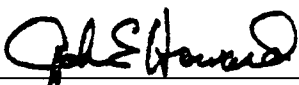
We have examined this matter, and we hereby grant the Petition. The coding error did not affect the penalty payments owed to the competitive carriers. We agree that the size of the fine does seem excessive under these circumstances, and considering the specific facts of this case, granting the Petition for Waiver of the fine is not inconsistent with the underlying purposes of the SEEM Plan. However, we also hold that this decision should not be considered precedent for a change in the method of assessment of penalty calculations going forward. We believe this to be a unique circumstance. Future waiver petitions shall be considered on a case-by-case basis.

This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:


Elizabeth B. Fleming, Chairman

ATTEST:


John E. Howard, Vice Chairman

(SEAL)